

MAR 27 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEVI SAMUEL LABUFF,

Defendant - Appellant.

No. 05-30567

D.C. No. CR-03-00083-SEH

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted March 18, 2008^{**}

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Levi Samuel Labuff appeals from the district court's decision, following a limited remand under *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

2005) (en banc), that the sentence it imposed would not have been materially different had it known that the Sentencing Guidelines were advisory. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Labuff contends that, upon remand, the district court failed to properly analyze the factors set forth in 18 U.S.C. § 3553(a), and that his sentence is unreasonable. We conclude that his sentence is reasonable because the record indicates that the district court “properly understood the full scope of [its] discretion in a post-*Booker* world.” *United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir. 2006).

Labuff also contends that, at sentencing, the district court abused its discretion by imposing his sentence to run consecutively to a prior undischarged sentence without adequately considering the factors set forth in Application Note 3(A) to U.S.S.G. § 5G1.3(c). We conclude that the district court adequately considered those factors and justified the sentence as a whole with reference to the § 3553(a) factors. *See United States v. Fifield*, 432 F.3d 1056, 1063-66 (9th Cir. 2005); *see also United States v. Perez-Perez*, 512 F.3d 514, 516-17 (9th Cir. 2008).

AFFIRMED.